

(1) The person who introduced such shipment or delivery into interstate commerce is the operator of the establishment where such drug is to be processed, labeled, or repacked; or

(2) In case such person is not such operator, such shipment or delivery is made to such establishment under a written agreement, signed by and containing the post-office addresses of such person and such operator, and containing such specifications for the processing, labeling, or repacking, as the case may be, of such drug in such establishment as will insure, if such specifications are followed, that such drug will not be adulterated or misbranded within the meaning of the act upon completion of such processing, labeling, or repacking. Such person and such operator shall each keep a copy of such agreement until 2 years after the final shipment or delivery of such drug from such establishment, and shall make such copies available for inspection at any reasonable hour to any officer or employee of the Department who requests them.

(b) An exemption of a shipment or other delivery of a drug under paragraph (a)(1) of this section shall, at the beginning of the act of removing such shipment or delivery, or any part thereof, from such establishment, become void ab initio if the drug comprising such shipment, delivery, or part is adulterated or misbranded within the meaning of the act when so removed.

(c) An exemption of a shipment or other delivery of a drug under paragraph (a)(2) of this section shall become void ab initio with respect to the person who introduced such shipment or delivery into interstate commerce upon refusal by such person to make available for inspection a copy of the agreement, as required by such paragraph (a)(2) of this section.

(d) An exemption of a shipment or other delivery of a drug under paragraph (a)(2) of this section shall expire:

(1) At the beginning of the act of removing such shipment or delivery, or any part thereof, from such establishment if the drug comprising such shipment, delivery, or part is adulterated or misbranded within the meaning of the act when so removed; or

(2) Upon refusal by the operator of the establishment where such drug is to be processed, labeled, or repacked, to make available for inspection a copy of the agreement, as required by such clause.

[41 FR 6911, Feb. 13, 1976, as amended at 64 FR 400, Jan. 5, 1999]

#### **§ 201.161 Carbon dioxide and certain other gases.**

(a) Carbon dioxide, cyclopropane, ethylene, helium, and nitrous oxide gases intended for drug use are exempted from the requirements of § 201.100(b) (2), (3), and (c)(1) provided the labeling bears, in addition to any other information required by the Federal Food, Drug, and Cosmetic Act, the following:

(1) The warning statement “Warning—Administration of (name of gas) may be hazardous or contraindicated. For use only by or under the supervision of a licensed practitioner who is experienced in the use and administration of (name of gas) and is familiar with the indications, effects, dosages, methods, and frequency and duration of administration, and with the hazards, contraindications, and side effects and the precautions to be taken”; and

(2) Any needed directions concerning the conditions for storage and warnings against the inherent dangers in the handling of the specific compressed gas.

(b) This labeling exemption does not apply to mixtures of any one or more of these gases with oxygen or with each other.

(c) Regulatory action may be initiated with respect to any article shipped within the jurisdiction of the Act contrary to the provisions of this section after 60 days following publication of this section in the FEDERAL REGISTER.

#### **Subpart F—Labeling Claims for Drugs in Drug Efficacy Study**

#### **§ 201.200 Disclosure of drug efficacy study evaluations in labeling and advertising.**

(a)(1) The National Academy of Sciences—National Research Council, Drug Efficacy Study Group, has completed an exhaustive review of labeling